

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-324

October 4, 2000

PATRICIA LETURE
Request for Commission Investigation
Into the Calling Area of the 884 Exchange
Of Mid-Maine Telecom in Glenburn and
Request the Same Extended Calling Area
As the Customers of Bell Atlantic in Glenburn

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we dismiss the complaint because it does not meet the requirements of Chapter 204 of the Commission's Rules, the Basic Service Calling Area Rule (BSCA Rule).

II. BACKGROUND

On May 13, 1999, pursuant to 35-A M.R.S.A. § 1302, Patricia Leture filed a 10-person complaint on behalf of herself and 9 other residents of the town of Glenburn, all of whom are Mid-Maine (Mid-Maine) Telecom customers in Mid-Maine's Levant exchange. The complaint requests that the Commission expand the basic service calling area of that portion of Glenburn which lies within Mid-Maine's Levant exchange to mirror the calling area of the portion of Glenburn within Verizon's (formerly Bell Atlantic) Bangor exchange. The requested expansion would provide the complainants with the same calling area as Verizon's Bangor-Brewer exchange which includes twenty exchanges¹ – approximately 75,000 lines. Currently, Mid-Maine's Levant customers can call the exchanges of Levant and Bangor – over 43,000 lines.

The complainants claim that the calling area should be expanded so that all of the residents of the town of Glenburn will have the same calling area. They also claim to need the expanded calling area to accommodate calls by their teenage children to school classmates who live in other towns. The complainants point out that other teenagers in Glenburn who are served by Verizon's Bangor exchange can call friends in other surrounding towns without incurring toll charges while their teenagers cannot.

¹ Bangor, Alton, Aurora, Bradford, Bucksport, Corinth, Eddington, Etna, Exeter (10/1/00), Hampden, Hermon, Levant, Newburg, Old Town, Old Town Rural, Orono, Orrington, Stetson, Winterport, and Otis.

Prior to the filing of the Leture complaint, the Commission had initiated an investigation into the rates of Mid-Maine Telecom, Investigation Into the Rates of Mid-Maine Telecom Pursuant to 35-A M.R.S.A. § 7102, Docket No. 98-897. In the course of its investigation and negotiations with the parties in the rate case, issues relating to calling areas (including the issues raised by the Leture complaint) were discussed in the hopes of reaching a comprehensive settlement. These discussions took place between the fall of 1999 through March of 2000. Unfortunately, while all of the others issues in the rate case were settled, agreement was not reached on the issues raised by the Leture complaint.

On April 20, 2000, the Hearing Examiner issued a procedural order inviting comment on a proposal developed by the staff for accommodating the Leture complaint without negatively impacting the revenues of Verizon or Mid-Maine. On April 26, 2000, Verizon submitted comments objecting to the expansion of the Levant calling area outside the constraints of the BSCA Rule. Verizon argued that the complainants' situation of having different calling areas within the same town due to the placement of incumbent local exchange company (ILEC) exchange boundaries was not unique. Verizon objected to the *ad hoc* alteration of calling areas outside the operation of the BSCA Rule. Verizon encouraged the Commission to amend the BSCA Rule if it wants to change its calling area policies. Verizon went on to identify specific reasons why the staff's proposal was not appropriate: concerns relating to serving ILEC customers with competitive local exchange company (CLEC) telephone numbers; the terms of payment for carriage and termination of traffic; and the financial impact of the arrangement.

In mid-April, a conference call was held among the parties to the Leture case. During that call, the parties discussed possible solutions. It was determined that additional information was needed before the parties could fully evaluate the different proposals. A schedule was set for the exchange of information and the information was, in fact, exchanged. On June 14, 2000, Verizon submitted a letter re-stating its earlier position on the Leture issue.

On June 19, 2000, a second conference call was held. Despite repeated attempts by staff and the complainants, no settlement agreement could be reached. On July 6, 2000, a procedural order containing three possible solutions to the Leture complaint was issued and further comment by the parties was invited. Comments were received from Ms. Leture asking that the Commission rule on her complaint and provide the requested relief.

III. STANDARDS

The BSCA Rule governs basic service calling area issues. It provides a mechanism for expanding an exchange's calling area pursuant to calling volume measurements made every five years. Pursuant to section Part III A of the Rule, an exchange will be added to another exchange's calling area if more than 50%

of the exchange's customers make 4 or more calls to the next exchange in the test month. If these requirements are not met, customers may request, in writing, that their telephone company try to accommodate their request. If the telephone company cannot meet the request, the customers may file a complaint with the Commission. The complaint must:

- a. be in writing;
- b. identify the sections of the Rule that the customers want the Commission to waive,
- c. explain and justify why the Commission should grant the waiver;
- d. suggest an alternative procedure;
- e. include a copy of the Company's response to the customer's request, and
- f. describe how the waiver would be consistent with the purpose of the Rule.

In addition, the complaint must include the names, addresses, telephone numbers, and signatures of the lesser of 30% or 1,000 customers of the exchange that requests a waiver from the Rule.

IV. DECISION

We first note that while the complainants filed their complaint as a 10-person complaint under 35-A M.R.S.A. § 1302. The more appropriate way to request relief would be to seek a waiver under Chapter 204. As noted above, the waiver provisions of Chapter 204 require a significant number of customer signatures. This complaint, with only 10 signatures, falls far short of the required 1,000 or 30 percent of the exchange's subscribers. In addition, the complaint did not identify the sections of the Rule that need to be waived, did not include a copy of the Company's response to any written customer complaint, and did not explain why waiver of the BSCA Rule was consistent with the Commission's policies. While we could dismiss the complaint based on these specific infirmities, we will address the merits of the complaint.

Although we sympathize with the complainants' concerns, we do not believe that their situation warrants waiver of the BSCA Rule. First, the calling volumes from Mid-Maine's Levant exchange do not warrant expansion of the calling area. During the latest round of measurements (which took place in 1999), Levant did not qualify for BSCA expansion. Further, the complainants already have access to over 43,000 lines in the Bangor and Levant exchanges. Their calling area is larger than many other calling areas in the state.

In addition, the complainants have low cost payphone access to each of the towns within thirty miles of Levant where their children attend school. The basic coin rate provision of the rule was designed specifically for students calling home from school. While we appreciate the fact that schoolmates may have a desire to converse with one another, our Rule was designed to provide lost-cost access between the school and a student's home, not the student's home and other students' home.

Providing the requested access, given the complexity of Maine's School Administrative District (SAD) mechanism, would be administratively difficult and, potentially, very costly. Specifically, if we were to grant the complainants' requests, we would be providing them toll free calling to eighteen new exchanges, only a few of which are within their community of interest. The costs associated with providing this extensive access, in terms of lost toll revenue to both Mid-Maine and Verizon, would be excessive, given that the complainants really are only requesting access to several surrounding towns.

Thus, we find that the Lecture complaint must be dismissed as without merit at this time. We encourage all of the complainants to participate in a proceeding we intend to initiate this fall to determine whether and how we should amend the current BSCA Rule.

Dated at Augusta, Maine, this 4th day of October, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.